Testimony of
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Wilderness Watch
on S. 1003
Before the Subcommittee on Forests and Forest Health
U.S. House of Representatives
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Mr. Chairman, and members of the Committee, I am providing this testimony on behalf of Wilderness Watch, a national citizen organization dedicated to the protection and proper stewardship of America's designated Wildernesses and Wild & Scenic Rivers.

Members of the committee, Senate bill S. 1003 seeks to overturn a federal district court decision which correctly found that the illegal construction and operation of 3 resort camps on the Wild and Scenic Salmon River violated the Wild and Scenic Rivers Act and the Central Idaho Wilderness Act. S.1003 will reverse many decades of administrative and congressional protection for the Salmon River country. It will grant special rights to 3 commercial outfitters on the Salmon River that are not afforded to any other of the thousands of outfitters operating on our public wildernesses and wild rivers. S.1003 will rob all Americans, young and old, able-bodied and disabled, of the opportunity to experience this wild river corridor in its most primitive and pristine condition.

The fact of the matter is that the type of developments that S. 1003 attempts to permit on the Wild Salmon River have been illegal for 70 years. In the 1930's, the area affected by S. 1003 became part of the Salmon River Breaks and Idaho Primitive Areas. The regulations that applied to the Primitive Areas provided that "there shall be…no occupancy under special use permits for hotels, stores, resorts, summer homes, organizational camps, hunting and fishing lodges or similar uses." These regulations governed this area until 1980, when the lands in question were designated as part of the River of No Return Wilderness and as part of the Wild and Scenic Salmon River. From the 1930s through the time of the Central Idaho Wilderness Act (CIWA) of 1980 and until today the only type of outfitter camps legally permitted on the Salmon River were those of a temporary nature. As the federal court found in Wilderness Watch v. U.S. Forest Service, "When the CIWA was enacted, permanent structures were prohibited in the Idaho and Salmon Breaks Primitive Area as a matter of law and regulation."

Despite this prohibition on permanent structures and lacking any authority to do so, several outfitters over the years constructed rustic buildings at their hunting camps. In 1970, mindful of the legal prohibitions against such developments, the U.S. Forest Service regional foresters for the northern and intermountain regions signed a letter ordering that all camps be modified to be temporary by December 31, 1971. I have attached to my statement a copy of an affidavit from former Regional Forester Verne Hamre that confirms this (Attachment #1). Of the 8 outfitters who had constructed the illegal camps, 5 complied with the order and burned or removed the illegal structures. Three continued to flaunt the law and did not remove their illegal camps, and it is they or their successors who S. 1003 will reward.

The supporters of these illegal operations have argued that Congress, and in particular Senator Church of Idaho, intended for these illegal operations to remain. There is nothing in the legislative history to support these claims. As I mentioned above, none of the outfitters along the river were authorized to have permanent structures and all had been under orders to remove them. It simply begs reason to believe that Congress intended to reward these illegal acts or that it intended to lessen the legal protections this wild river had enjoyed for nearly 50 years. Senator Church made a point of writing special provisions in CIWA to allow jetboat use to continue and to allow several airplane landing strips to remain. As one who worked to pass the Wild and Scenic Rivers Act, he knew that the standard for wild rivers is that the shorelines must remain essentially primitive and as vestiges of primitive America. Had he wanted permanent camps complete with lodges and cabins in the Wilderness or the wild river corridor he could have included that in his bill and tried to get his colleagues to endorse the idea, but he didn't. That was not his intent and, as the courts have found, it was not the intent of Congress.

It was certainly not the Dept. of Agriculture's understanding of CIWA when the bill was being debated. I have attached a letter from former Asst. Secretary of Agriculture Rupert Cutler, who oversaw the Administration's work on CIWA and who testified on the bill (Attachment #2).

Members of the committee, S. 1003's attempt to mandate permanent resorts on the Wild Salmon River does not "clarify" the CIWA, it unravels it. Moreover, it sets an entirely new and dangerous precedent for wild rivers.

Aside from the national precedent, what is at stake in S.1003 is one of America's premier Wild Rivers. There are so few places remaining in our country where an American citizen can launch his or her raft and drift for days through a large wild area without encountering signs of modern civilization. The Salmon River is supposed to be protected as one of these increasingly rare places. For those who want a more developed recreation opportunity they can be accommodated at the Forest Service-permitted Salmon River Resort just upstream of the Wild River corridor, or at any one of several private lodges further downstream on private lands. But their experience needn't be at the expense of the wild river. If S.1003 passes, the losers will be the vast majority of visitors who are seeking a wild river experience, and the great number of Americans who take pleasure in simply knowing that wild places exist and will be preserved.

It is sadly ironic that since CIWA passed, U.S. taxpayers, through the US Forest Service, have paid upwards of $4 million to acquire private land and easements to prohibit the very kind of developments on private land that S. 1003 would authorize on public land in the wild river corridor.

It is also worth noting that two of three resorts had a change in ownership in recent years. Those resorts were acquired during the time that the legal status of the resorts was being challenged in federal court. Each of the outfitters' permits contain clauses that clearly state that all permanent structures would have to be removed if the Forest Service lost the litigation that was then underway. The outfitters entered into their business deals with eyes wide open, no doubt the risky legal tenor of these resorts was reflected in the purchase price.

Mr. Chairman, the right thing to do is to shelve S. 1003 and let the Forest Service implement the law as it is written. In September 2000, a federal judge ruled that the lodges on these three sites were illegally constructed and ordered the Forest Service to fashion a plan to remove them, being mindful of the concerns of the outfitter-permittees. Following the court's direction and at the urging of the affected outfitters, the Forest Service granted the permittees until December 31, 2005 to comply with the law. That is more than 5 years-time since the court decision, and more than double the amount of time afforded other outfitters who have had to remove illegal structures from the Salmon River. Moreover, the Forest Service has agreed to allow the outfitters to continue to operate at these same camps with temporary structures as allowed by law. Thus, they are not being put out of business, but instead will be allowed to operate and provide services to the public in a fashion that is consistent with the tenets of the Wild and Scenic Rivers Act and the Central Idaho Wilderness Act.

Thank you for your consideration.

Attachment #1: Affidavit of Vernon O. Hamre
Attachment #2: Letter from M. Rupert Cutler to Senator Pete Domenici
Attachment #3: Chronology of Salmon River protection and the illegal commercial resorts